IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6894 of 2007()

[CRIME NO.523/2007 OF CHERPU POLICE STATION]

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PETITIONER/ACCUSED

SAJITH @ UNDAPPAN,
S/O.MOHANAN, MOOLEKKATTUK HOUSE
PALISSERY DESOM, PALISSERY VILLAGE, THRISSUR TALUK

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENT: COMPLAINANT

THE STATE OF KERALA
REPRESENTING SUB INSPECTOR OF POLICE
CHERPU, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6894 of 2007

Dated this the 14th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered for offences punishable, inter alia, under Section 462 I.P.C. The crux of the allegations is that the petitioner trespassed into a bakery run by the defacto complainant and indulged in wanton acts of mischief. The bottles in which bakery items were kept were damaged. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest. The alleged incident took place on 30.09.07. F.I.R was promptly registered on the same date. The petitioner is shown as an accused in the F.I.R.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He may be granted anticipatory bail, it is prayed. According to the petitioner, false allegations are being raised against the petitioner because of political animosity. The defacto complainant owes allegiance to the C.P.M and the petitioner allegedly is a member of the B.J.P.

3. The learned Public Prosecutor opposes the application. The case diary has been placed before me for my perusal. Scene mahazar bears telltale indications of the alleged mischief that had taken place

within the premises of the defacto complainant. The learned Public Prosecutor further points out that the petitioner has criminal antecedents. It is submitted that he is registered as a rowdy in the local police station. The learned Public Prosecutor further submits that non furnishing of articles on credit is the alleged motive.

4. Having considered all the relevant inputs, I am unable to find any features in this case which can justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must surrender before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-